



COUNTY OF SAN LUIS OBISPO
Department of Agriculture/Masurement Standards

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SAN LUIS OBISPO COUNTY
PESTICIDE USE ENFORCEMENT PROGRAM

Work Plan for 2011 through 2013

Mission Statement

To protect people, the environment and the food supply by ensuring the safe use of pesticides in San Luis Obispo County.

April 2011

**SAN LUIS OBISPO COUNTY
PESTICIDE USE ENFORCEMENT PROGRAM
2011, 2012, 2013 WORK PLAN OUTLINE**

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I COUNTY RESOURCES

A. Staff Positions

- 1 Deputy Ag. Commissioner
- 8 Inspector Biologists
 - 5 full time
 - 3 part time
- 4 Technicians part time (~.75 staff year)
- 3 Clerical staff part time (~.75 staff year)
 - One Administrative Assistant per office

B. Staff Time (includes management, supervision, inspection, technician and clerical hours) Full Time Equivalent (FTE) per Fiscal Year (FY)

- Historical
 - FY 02/03 11.2 FTE
 - FY 03/04 11.8 FTE
 - FY 04/05 9.6 FTE
 - FY 05/06 9.4 FTE
 - FY 06/07 9.8 FTE
 - FY 07/08 10.0 FTE
 - FY 08/09 9.1 FTE
 - FY 09/10 8.0 FTE
- Projection
 - Annual Goal 8.5 FTE

C. Assets

- All pesticide use enforcement Inspector/Biologists have vehicles available for their use; assigned or shared out of the department vehicle pool.
- Each Inspector/Biologist has a computer workstation at their desk.
- There are three offices: Templeton, San Luis Obispo and Arroyo Grande. Each office has a permit issuance room or area.
- We currently use the Restricted Materials Management System (RMMS) computer data base program and web-based applications for pesticide use permitting and reporting.
- A new statewide Pesticide Permitting and Use Reporting system (CalAgPermits) is in the development and testing phase. The conversion to the new system is scheduled to be installed before 2012 permit issuance.
- Our department has historically maintained a GIS and aerial mapping layer as a part of permit issuance. In the future, we will continue to utilize mapping tools in conjunction with the new statewide CalAgPermits system.
- We are using two laptop computers with the Automated & Inspection Reporting System software. Budget constraints have delayed fully automating our inspection process. Our long term goal is to automate inspections and data management.

II RESTRICTED MATERIALS PERMIT ISSUANCE

A. Five Year Average of Annual Permit Issuance Statistics (including Operator Identification Numbers)

- Number of restricted materials permits issued ~ 600 permits
- Private applicators certified ~ 225
- Number of operator identification numbers (OINs) issued ~ 386 OINs
- Total number of active permits and OINs (including multiyear) ~ 1,353
- Total number of agricultural sites ~ 3543
- Notices of intents (NOIs) ~ 5,379 NOIs
- Registrants
 - # Pest Control Advisors ~ 120
 - # Pest Control Businesses ~ 142 (including licensed Maintenance Gardeners)
 - # Farm Labor Contractors ~ 94
 - # Structural Pest Control Operators ~ 66

B. Local Conditions

- Significant crops grown by region
 - Northern: wine grapes, grain, rangeland and vegetable row crops
 - Central/Coastal: wine grapes, specialty crops (sugar peas, Chinese vegetables, tomatoes) avocados, citrus and rangeland
 - Southern/South Eastern: row crops (including broccoli, bell peppers, cauliflower, carrots, vegetable transplants, lettuce, etc...), nursery cut flowers, indoor decoratives, strawberries and fruit trees. There has been a shift from vegetables row crops to strawberries in the South County, Oso Flaco Valley.
- Sensitive and high profile sites defined as:
 - People and occupied structures near fumigation sites
 - Locations with a history of neighbor complaints
 - Locations at the Ag/Urban interface
 - Schools and day cares within 500 feet of an agricultural operation
 - Parks and recreational areas
 - Water ways (dependent on aquatic toxicity of pesticides)
 - Sensitive crops (dependent on phyto-toxicity of pesticides)
 - Endangered species habitats
 - Other (as identified)
- Workload Trends:
 - Increased and changing regulations related to; field fumigant use, surface/ground water, enforcement response, and personal protective equipment.
 - Increases in fumigated acreage for crops such as strawberries, peppers and nursery stock.
 - Media attention and public concern about pesticide use near urban areas requires special attention to sites where there is a history of complaints.
 - Increases in the number of sites with an agriculture/urban interface.
 - Response to pesticides found as a result of Regional Water Quality Control Board water monitoring. Results from water monitoring show pesticide contamination in local waterways.
 - Increased enforcement follow-up and less local discretion as a result of the Enforcement Response Regulation.
 - Reduction in the total number of restricted materials permits issued due to growers choosing to use less toxic alternatives.

- Budget constraints continue to require us to eliminate non-core program activities. During the past three years, the time dedicated to pesticide use enforcement has been cutback by approximately two staff years.

C. Education and Outreach

- o Department representatives provide regular regulatory updates to industry groups.
- o PUE Inspectors emphasize new or changing regulations during permit/OIN issuance and business registrations.
- o Permit issuance key messages are emphasized and adjusted each year:
 - New regulations are emphasized for three years after they become effective to ensure that permittees with multi-year permits receive the message.
 - Improve mapping of hazards on permit maps
 - Web-based use reporting
 - Current Issues; new field fumigant use requirements, surface and ground water protection from pesticide contamination, and mitigating agriculture/urban interface complaints.

D. Permit Review Process

- o Site Evaluation Process – Inspectors issue restricted material permits/non-restricted operator identification numbers (OINs) on a district basis. Computerized aerial photographs and GIS layers are utilized to map and identify environmental hazards at each use site. Inspectors visit sites depending on level of pesticide hazard and the sensitivity of the proposed site. All requests for restricted fumigants are verified and monitored closely. The district approach allows for consistent customer service, familiarity with potential hazards and knowledge of established agricultural practices within assigned regions.
- o In response to the Grand Jury 2005/06 Report, and the Health Commission Pesticide Task Force recommendation we have formalized a process to update the schools/daycare GIS map layer on an annual basis. This mapping layer is utilized during permit issuance to condition the use of restricted materials near school sites.
- o Restricted Material Permitting and Review Process – Restricted use permit conditions and issuance handouts are updated annually to clarify and improve existing permit conditions, incorporate new and/or updated regulations, policies and new permit conditions. During this process areas of focus or concern for the coming permit issuance season are identified.
- o The quality of permit/OINs is monitored by random spot checks conducted by the program Deputy, Enforcement Branch Liaison, and peer review.
- o Participation in the Southern California Pesticide Deputy group's quarterly meeting provides opportunity to discuss and compare county programs, and to share insights into current issues and challenges.
- o We coordinate the Central Coast Pesticide Use Enforcement Roundtable meeting twice a year. This meeting includes participation of staff from six coastal counties and representatives from the Department of Pesticide Regulation (DPR). The primary focus is to discuss fumigant and pesticide use issues that are of concern in the coastal counties.

E. Permit Issuance Improvement Goals

- o Improve documentation of hazards on permit maps.
- o Acquire new skills to utilize the new statewide CalAgPermits system.
- o Improve tracking of required inspections for the use of restricted materials in non-ag settings.
- o Improve the clarity of permit conditions for the use of restricted field fumigants.

F. Expected Results

- Better documentation of hazards on permit maps.
- Obtain a high level of skill for the efficient use of the new statewide CalAgPermits system.
- Each permittee using restricted materials in the non-agricultural restricted setting is inspected at least once per year.
- Clearly written and understood field fumigant permit conditions.

G. Measures/Assessment (Internal County Department performance measure)

- Permit/OIN maps updated during issuance with accurate and current hazards identified (Yes or No)
- PUE staff trained and proficient to use new CalAgPermits system (Yes or No)
- Permittees using restricted materials in a non-agricultural setting inspected annually (Yes or No)
- Improved compliance with San Luis Obispo County field fumigant permit conditions (Yes or No)

III COMPLIANCE MONITORING

A. INSPECTIONS

1. History of Annual Overall Compliance Rate

- FY 02/03 95.9%
- FY 03/04 96.8%
- FY 04/05 96.1%
- FY 05/06 96.7%
- FY 06/07 97.2%
- FY 07/08 95.6%
- FY 08/09 96.5%
- FY 09/10 96.6%
- San Luis Obispo County has an overall high compliance rate. In general, violations are of a more technical nature. This is also reflected in the low number of illness investigations and drift incidents. There was a reduction in the compliance rate in 07/08 primarily due to a shift in focus to inspections of maintenance gardeners.

2. Inspection Statistics

- Historical # of inspections per year
 - ◆ FY 02/03 Ag. 600, Ag. Records 73, Structural 35 = 775
 - ◆ FY 03/04 Ag. 630, Ag. Records 140, Structural 67 = 837
 - ◆ FY 04/05 Ag. 504, Ag. Records 99, Structural 92 = 695
 - ◆ FY 05/06 Ag. 565, Ag. Records 95, Structural 53 = 766
 - ◆ FY 06/07 Ag. 389, Ag. Records 56, Structural 50 = 495
 - ◆ FY 07/08 Ag. 544, Ag. Records 118, Structural 60 = 722
 - ◆ FY 08/09 Ag. 465, Ag. Records 101, Structural 55 = 621
 - ◆ FY 09/10 Ag. 334, Ag. Records 78, Structural 35 = 447
- Annual Goal: Ag. 395, Ag. Records 85, Structural 40 = 520
- Our annual goal has been adjusted to accommodate the increased time required to document and justify our enforcement response and the decrease in staffing levels due to budget cutbacks. We continue to protect our time and commitment for conducting field inspections.

3. Current Inspections Focus Strategies

- Fumigations Applications: All restricted use fumigants uses are monitored very closely. Pre-application and/or application inspections are conducted on fumigant applications near sensitive sites.
- Applicators that have never been inspected
- Unlicensed maintenance gardeners using pesticides
- Applicators at sensitive/high profile sites
- Groundwater protection chemicals used in ground water protection areas
- Pesticides applied near waterways or well heads
- Applicators with a history of compliance problems
- Private applicators with employees
- Farmworkers in treated fields
- Weekend, night and off-hour surveillance of pesticide applications

4. Distribution of Inspection Work Goals

- Annual work goals are assigned to pesticide use enforcement (PUE) Inspector/Biologists and evaluated as a component of the employee's performance evaluation. Work goals take into account current cropping patterns, pesticide use trends, type of applicators, applications and hazards within assigned districts.
- PUE Inspector/Biologists participate in monthly PUE program staff meetings to share information and improve consistency.
- A workload analysis is conducted annually and utilized to adjust and better target inspection goals.
- One bilingual inspector conducts most of the Field Worker Safety Inspections countywide.
- Bilingual staff members assist Spanish speaking clients countywide.

5. Inspection Improvement

- Utilize statewide data and expand existing inspection database to improve our evaluation of compliance trends.
- Continue to improve tracking systems to ensure that we are meeting targeted inspection goals.
- Improve coordination between offices and individual Inspectors, by utilizing a more regional team approach to accomplishing inspection goals.

6. Expected Results

- Statistical database provides reliable information to evaluate compliance trends, and plan inspection focus.
- Data accessible and available to provide ongoing feedback related to achieving goals.
- Achieve inspections goals according to the work plan criteria.

7. Measures/Assessment (Internal County Department performance measure)

- Database utilized to evaluate and set inspection work plan goals. (Yes or No)
- Technology utilized as a tool to improve oversight of targeted inspections. (Yes or No)
- Inspection goals met. (Yes or No)

B. INVESTIGATIONS

- **Investigative Reporting Statistics** Historical # of Investigative and Complaint Reports per year (5 year average)
 - ◆ 9 Investigative Reports
 - ◆ 38 Complaint Reports

- FY 09/10 # of Investigations and Complaint Reports
 - ◆ 13 Investigative Reports
 - ◆ 29 Complaint Reports
- All pesticide incidents and complaints are investigated, logged into a countywide enforcement tracking database and documented with either a written investigative or complaint report. We track the complainant, respondent, location, type of complaint, pesticides involved and violations found and submit this information to DPR on a monthly basis.

2. Current Investigation Trends

- Most of our pesticide complaints take place in the agriculture/urban interface and involve complaints of odor or drift allegations.
- Conflicting land uses demonstrate a need for sound local land use decisions in which both the agricultural use and the public's health and safety are considered and protected. Proper location of new developments with adequate buffers is essential to meet continued demand for urban growth while protecting agriculture. Our department has an active Land Use Planning program which acts as an advisor to the County Planning Department and to the Board of Supervisors.

3. Investigative Improvement Goals

- Complete all reports within 30 days of completing the investigation and gathering evidence. This is an internal timeliness standard.

4. Expected Results

- Timely submission of investigative and complaint reports.

5. Measures/Assessment (Internal County Department performance measure)

- Results of internal and external audits by the program deputy and the DPR Enforcement Branch Liaison.
- Timeliness standard tracked and measured (Yes or No)

IV ENFORCEMENT RESPONSE

A. Statistical Analysis

- Historical # of Compliance Actions per year (includes all warning letters, notices of violation, cease and desists, and compliance interviews)
 - FY 02/03 125
 - FY 03/04 251*
 - FY 04/05 489*
 - FY 05/06 433*
 - FY 06/07 388
 - FY 07/08 122
 - FY 08/09 158
 - FY 09/10 156

* There was a significant increase in the number of compliance actions due to our efforts to correct pesticide use reporting errors. We have eliminated some of the problems by utilizing the web-based use reporting program and by providing immediate feedback to applicators when there are errors.

- A Decision Report is a written explanation and record of a commissioner decision not to take an enforcement action (required by regulation since 2006). Historical # of Decision Reports written per year
 - FY 06/07 48
 - FY 07/08 45
 - FY 08/09 45
 - FY 09/10 63*

*18 Unlicensed Maintenance Gardeners (MG) attended our MG pesticide safety training and took the MG Qualified Applicator Exam in lieu of being fined.
- Historical # of Fine Actions closed per year
 - FY 01/02 27 Agricultural and 3 Structural = 30 total fine actions
 - FY 02/03 21 Agricultural and 0 Structural = 21 total fine actions
 - FY 03/04 21 Agricultural and 1 Structural = 22 total fines actions
 - FY 04/05 27 Agricultural and 1 Structural = 28 total fine actions
 - FY 05/06 33 Agricultural and 3 Structural = 36 total fine actions
 - FY 06/07 34 Agricultural and 4 Structural = 38 total fine actions
 - FY 07/08 39 Agricultural and 8 Structural = 47 total fine actions
 - FY 08/09 40 Agricultural and 5 Structural = 45 total fine actions
 - FY 09/10 32 Agricultural and 0 Structural = 32 total fine actions*

*18 Unlicensed Maintenance Gardeners (MG) attended our MG pesticide safety training and took the MG Qualified Applicator Exam in lieu of being fined.
- Hearing Requests
 - Historical Level = 1 or 2 per year
 - FY 09/10 = 3 hearings held, with one of the three cases appealed to the Department of Pesticide Regulation.

B. Current Enforcement Trends

- We have a record of meeting or exceeding the requirements outlined in DPR's Enforcement Response Policy and Regulation.
- In making our enforcement decisions, we make every effort to ensure that we are being fair, equitable and that the penalty is appropriate to the violation.
- All non-compliances are logged into the Enforcement Tracking Log database with documentation of required follow-up.
- Inspectors use the Enforcement Tracking Log to review the history of non-compliance for each respondent, and consider the potential hazard when determining the appropriate level of enforcement.
- Notices of Proposed Actions (NOPA) and Decision Reports (DR) are drafted by Inspectors and reviewed and approved by department management.
- The Deputy makes a courtesy phone call to all respondents prior to sending the NOPA.
- Other enforcement options including denying restricted materials permits, licensee registrations or involving DPR and/or the County District Attorney for the more egregious cases, are considered.
- The Enforcement Response Policy and Regulation continues to shift staff time and resources out of the field. Each violation requires additional time to document, classify and justify our enforcement follow up.
- We continue to provide outreach and education to the regulated industry so that they are informed of enforcement trends and of changes in pesticide regulations and laws.

C. Enforcement Response Improvement Goals

- Continue to implement the Enforcement Response Regulation:
 - Manage the increased workload necessary to document justifications for our enforcement follow up.
 - Continue to streamline procedures and meet required deadline to process Decision Reports within 30 days.
- Continue to evaluate the impacts of implementing enforcement response regulation and provide input to DPR on the effects to our pesticide enforcement program.

D. Expected Results

- Implement Enforcement Response Regulations
 - Efficient timely processing of fine actions and decision reports
 - Decision Reports ready for reviewed by DPR within 30 days
- Better information for developing statewide consistency and enforcement credibility.

E. Measures/Assessment (Internal County Department performance measure)

- Enforcement Response Regulations fully implemented. (Yes or No)
- Impact of Enforcement Response Regulation clearly communicated to DPR. (Yes or No)

V STAFF TRAINING

A. Historical Approach

- It takes an average of two to three years for a PUE Inspector to become independent and proficient.
- Ongoing training for staff is provided at monthly PUE staff meetings and as needed in a continuous process of feedback related to performance standards and quality checks.
- Training is provided to county staff by DPR to implement new regulations and/or changes in policies and procedures.
- The Enforcement Branch Liaison provides assistance with training on an as needed basis.
- The PUE Deputy checks-in with each Inspector at least quarterly to discuss work goals and to determine training needs.
- We have developed training modules for the core program areas to assist in training new staff and to refresh experienced staff.
- Cross training is being utilized to help ensure succession planning.

B. Staff Training Improvement Goals

- Continue to develop and improve the PUE program training modules.
- Continue to use the modular training program with newly assigned staff.
- To retain well trained experience staff.

C. Expected Results

- The training modules are a useful and up-to-date resource.
- Well trained resourceful staff able to work independently and within the PUE program guidelines.
- Well trained Inspectors with depth and experience in pesticide use enforcement.

D. Measures/Assessment (Internal County Department performance measure)

- Continue to improve the training modules for all core assignments. (Yes or No)
- The new training modules are used for new and existing staff. (Yes or No)
- Limited staff turnover. (Yes or No)

VI SPECIAL PROJECTS

- A. San Luis Obispo County Agricultural Commissioner's Office continues to focus efforts on urban pesticide use in addition to the traditional focus on agriculture. Our Maintenance Gardener (MG) projects are an example of our efforts in the urban setting. We have participated in three separate MG projects; outreach to the public using television commercials, offering local pesticide license training with DPR exam opportunities and providing integrated pest management training. These projects were all funded through DPR. MGs who apply pesticides as a part of their gardening service are required to be licensed by DPR. In fiscal 09/10 one hundred and thirteen maintenance gardeners who participated in our workshops passed the MG DPR qualified applicator certificate exam. Pesticide safety compliance by MGs is improving and our efforts are continuing with outreach, surveillance and enforcement follow up.
- B. DPR often seeks input from counties to provide comments on local and statewide impacts of proposed changes to policies, procedures, or regulations. We take this role seriously and as time permits dedicate resources to providing detailed input.
- C. In fiscal year 09/10 the San Luis Obispo County Agricultural Commissioner was the statewide chair of the Information Technology (IT) Consultant Committee formed to develop a statewide Pesticide Permitting and Use Reporting IT needs. This project is currently underway and is planned for full statewide implementation in 2012.
- D. In 2011 a local company is developing a state of the art commodity fumigation facility to expedite exporting of regional produce to foreign countries. We are working closely with this company, USDA and DPR to ensure that the fumigation requirements are met and people and the environment are protected.